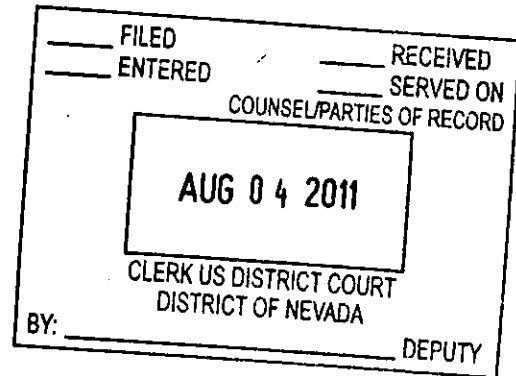


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5 KING CONSTRUCTION, INC.



6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

8
9 JUDY KROSHUS, et al.,
10 Plaintiffs,

Case No: 3:09-cv-00713-RCJ-RAM

11 v.

**ORDER GRANTING MOTION FOR
DETERMINATION OF GOOD
FAITH SETTLEMENT**

12 UNITED STATES OF AMERICA, et al.,
13 Defendants.

14 Based upon Motion made by Defendant, KING CONSTRUCTION, INC., by and through its
15 attorney, THOMAS MIRCZAK, ESQ., of CISNEROS CLAYSON & MARIAS, upon the papers and
16 pleadings on file in this matter, and the hearing held thereon, the Court now enters its findings of facts,
17 conclusions of law and judgment as follows:

- 19 1. This case arises from a breach of the Truckee Canal in Lyon County, Nevada, on
20 January 5, 2008.
- 21 2. A Complaint for Damages was filed against numerous Defendants.
- 22 3. Plaintiffs are owners of residential property situated in Fernley, Nevada.
- 23 4. Plaintiffs claim that they suffered damages resulting from the flood waters that
24 came from the breach of the Truckee Canal on January 5, 2008.
- 25 5. Plaintiffs allege that the January 5, 2008 flood in Fernley, Nevada was due to the
26 inadequate maintenance and operation of the Canal, among other reasons. They
27
28

1 further assert that the flood consequences were “exacerbated” by the City of
2 Fernley and the County of Lyon because of “intentional indifference” to
3 requiring the contractors and builders of the residential subdivision to construct
4 infrastructure that would minimize the damage caused by flooding in the event
5 the floodwaters entered the subdivision where Plaintiffs’ homes were located.

6
7 6. Plaintiffs also assert that the flood consequences were exacerbated by the “errors
8 and omissions” in constructing various elements, including Rolling Meadows
9 subdivision improvements, houses, Jenny’s Lane crossing, and the “Knuckle” at
10 Wrangler Road and Wagon Wheel, committed by the Defendants, as well as
11 allegations of misrepresentations made on the sale of Rolling Meadows
12 properties.

13
14 7. KING CONSTRUCTION, INC. was a subcontractor hired to complete
15 excavation work at the Rolling Meadows subdivision. KING
16 CONSTRUCTION, INC. also completed work at Jenny’s Lane and the
17 “Knuckle”.

18
19 8. An amicable global settlement of this matter has been reached among the
20 Plaintiffs and most parties to this case.

21
22 9. The Settlement Agreement provides that KING CONSTRUCTION, INC. shall
23 pay the sum of \$162,500.00 in exchange for a complete release from the instant
24 action and all pending actions as listed in the Motion.

25
26 10. KING CONSTRUCTION, INC. had insurance that provided coverage for any of
27 the pending actions.

28
11. The amount paid by KING CONSTRUCTION, INC. will be allocated to the
Rondy class pursuant to calculations to which KING CONSTRUCTION, INC.

1 was not in privy, but the sum paid is in consideration for the global settlement of
2 all claims and is reasonable.

3 12. KING CONSTRUCTION, INC. continues as a viable business entity although
4 its business has been drastically reduced because of the economic downturn.

5
6 13. There is no evidence or allegation that this settlement is fraudulently, collusively
7 or tortuously aimed at injuring non-settling Defendants.

8 14. The Court grants approval of the Global Settlement Agreement.

9 15. The Court finds that the settlement agreement is made in good faith, and,
10

11 ~~The matter is dismissed with prejudice as to all claims against KING~~
12 CONSTRUCTION, INC.

13 IT IS SO ORDERED.

14 DATED: August 4, 2011.

15
16
17
18 
UNITED STATES MAGISTRATE JUDGE

19
20 Respectfully submitted by:
21 CISNEROS CLAYSON & MARIAS
22 /s/ **Thomas Mirczak**

23 THOMAS MIRCZAK, ESQ.
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25 Reno, NV 89501
26 Attorneys for Defendant
27 KING CONSTRUCTION, INC.
28

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2011, I caused copies of the foregoing document in accordance with Rule 5, to be served on all parties to this action via the U.S. District Court's e-filing (CM/ECF) system.

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13			
14			

/s/ Vicky Cralle

An Employee of CISNEROS CLAYSON & MARIAS